

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

STEVEN GREGORY MILLER, # 72922

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:15cv26-DCB-JCG

**LARRY LEE, DR. JAMES BURKE,
GABRIEL WALKER, FRANK SHAW,
SHEIDRA ARRINGTON, M.T.C.,
LIEUTENANT BURGE, AARON
MCGARY, and MICHAEL JAYNES**

DEFENDANTS

ORDER CONSTRUING NOTICE

BEFORE THE COURT is *pro se* Plaintiff Steven Gregory Miller's [31] Notice of Voluntary Dismissal. Plaintiff filed this action on March 9, 2015. He is incarcerated with the Mississippi Department of Corrections, and he challenges the conditions of his confinement. Plaintiff now wishes to dismiss the case in its entirety.

On August 6, 2015, Defendant Larry Lee filed an Answer [23] to this case. Defendant James Burke filed his Answer [25] on August 19. Thirteen days later, the Court received Plaintiff's Notice of Voluntary Dismissal, as well as the Management and Training Defendants' Answer [32]. Only Defendant Lieutenant Burge has not waived process or been served, because counsel for the Management and Training Defendants could not identify this Defendant from the pleadings.

Because two Defendants had already filed an Answer prior to the Notice of Voluntary Dismissal, the Court will construe the Notice as Plaintiff's motion to dismiss. *See*, Fed. R. Civ. P. 41(a).

IT IS THEREFORE ORDERED AND ADJUDGED that *pro se* Plaintiff Steven Gregory

Miller's Notice of Voluntary Dismissal [31] is hereby construed as a motion to voluntarily dismiss this case. The Court will take the motion and any responses under advisement.

SO ORDERED AND ADJUDGED, this the 3rd day of September, 2015.

s/David Bramlette
UNITED STATES DISTRICT JUDGE